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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,054	01/31/2002	Dorin Panescu	267/107	3947

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EXAMINER

PEFFLEY, MICHAEL F

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/066,054

Applicant(s)

PANESCU, DORIN

Examiner

Michael Peffley

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 11-16 and 19-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11-16 and 19-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 2, 2004 has been entered. It is noted that applicant has also submitted a supplemental amendment on January 26, 2004 to correct deficiencies in the January 2, 2004 amendment filed with the RCE papers.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1, 11, 12, 14, 16, 19-21, 24, 25, 27, 29-32, 35-40, 43 and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker ('920).

Baker discloses a system for delivery energy to a therapeutic device which comprises a generator (88) and a controller or power regulation circuit (100) connected to the therapeutic device via a cable (not shown). A feedback apparatus (i.e. sensor 80) is coupled via the cable to the therapeutic device. The sensor may sense temperature, current or voltage and then transmits a signal to the controller to control the delivery of RF energy to the therapeutic device (col. 10, lines 28 to Col. 11, line 29).

Claim Rejections - 35 USC § 103

Claims 15 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker ('920) in view of the teaching of Becker et al ('659).

The Baker system has been addressed previously. In addition to the temperature sensors, Baker teaches that the voltage, current and power may be monitored and that information used to control the output power of the generator. However, Baker does not teach the use of digital signals from the feedback apparatus (i.e. sensors).

Becker et al, as addressed in the previous Office action, disclose a power/voltage/current measurement means which may be connected to the therapeutic device either inductively or by direct circuit. Such an arrangement allows for the measure of the voltage, current and power characteristics at the device. Further, Becker et al suggest that the components may be either digital or analog (Abstract) as is well known in the art. It is the examiner's position that one of ordinary skill in the art would recognize the obvious substitutability of analog and digital sensors.

To have provided the Baker system with a voltage/current sensor feedback means which sends a digital signal to the controller in order to control the power characteristics at the device would have been an obvious modification for one of ordinary skill in the art in view of the Becker et al teaching.

Claims 22, 23, 41, 42, 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker ('920) in view of the teaching of Brucker et al ('012).

The Baker system has been previously addressed. Baker provides an RF ablation catheter for the treatment of tissue, and fail to disclose the use of alternate energy sources such as microwave and ultrasonic energy.

Brucker et al also disclose an ablation catheter system which includes an RF electrode means for treating tissue and a temperature feedback means to control power delivery. Also, Brucker et al teach that it is generally known to substitute other types of energy modalities, such as microwave and ultrasonic energy (col. 2, lines 50-56). The examiner maintains that the use of well-known alternative energy delivery means is generally known in the art as evidenced by Brucker et al.

To have provided the Baker system with any well-known alternative energy source, such as microwave and/or ultrasonic energy, would have been an obvious consideration for one of ordinary skill in the art, particularly since Brucker et al teach that these energy modalities are readily substitutable in ablation catheter systems.

Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker ('920) in view of the teaching of Ben-Haim ('493).

Baker fails to disclose the use of wireless sensors which transmit measured data to a central control without a hard-wired connection.

Ben-Haim disclose an endoscope system which employs a plurality of sensors for monitoring endoscope position. In particular, Ben-Haim teach that the sensors may be hard-wired to the control unit, or the sensors may be use wireless transmitters so as to take up less space in the device with sensor wires (col. 9, lines 45-50).

To have provided the Baker sensors with a wireless transmission means to send the sensed data to the controller while taking up less space with transmission wires would have been an obvious design consideration for one of ordinary skill in the art, particularly since Ben-Haim teach that wireless sensors may be advantageously employed to provide signals while taking up minimal space in a catheter-type device.

Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker ('920).

Baker does not specifically disclose the use of extension cords associated with the cabling coupling the generator to the device. However, applicant's specification indicates at page 2, lines 15-16 that it is common practice to extend the length of patient cables with extension cords.

To have provided the Baker system with an extension cord to extend the length of the cable from the generator to the therapeutic device would have been an obvious modification for one of ordinary skill since it is common practice to provide such electrosurgical devices with extension cords.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eggers et al ('964) discloses an electrosurgical device which includes a current sensor (37) located at the distal end of the delivery cable and within the handle of the device (see Figures 2a and 2b). Williamson, IV et al ('093) disclose

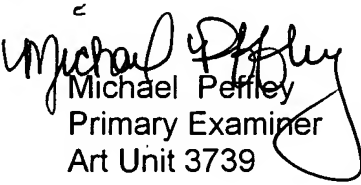
Art Unit: 3739

another system which uses current and voltage sensors to control generator output (see col. 10).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Peffley whose telephone number is (703) 308-4305. The examiner can normally be reached on Mon-Fri from 6am-3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michael Peffley
Primary Examiner
Art Unit 3739

mp
February 5, 2004